

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.
FIRST APPEAL NO.411 OF 2001.

The State of Maharashtra : Appellant.
versus
Hasan Usman Momin : Respondent.

Mr.S.N.Gawade, AGP, for the State.

Mr.K.S.Patil with Mrs.Sonia Maskarni for the
respondent.

CORAM : D.G.DESHPANDE, J.

DATED : 18th February 2005.

ORAL ORDER

1. Heard learned AGP for the appellant and the advocate for the respondent. This appeal is filed by the State challenging the enhancement of compensation given by the Reference Court from Rs.43,318/- to Rs.86,636/- . One single storied house situated at Pardi No.7, village Wada, Tal.Khed, Dist.Pune was acquired. That house was obviously of the claimant/respondent. The

Special Land Acquisition Officer awarded him compensation of Rs.1,10,000/-. This amount includes compensation of Rs.43,000/- only for the aforesaid structure or house. The claimant therefore filed a reference for enhancement. He examined one valuer and, even though the Reference Court rejected the evidence of the valuer, it took into consideration the fact that the building was constructed in 1954. It was about 30 years of old at the time of acquisition and the price can not be double than the market price or, double than the price awarded and, therefore, awarded Rs.86,636/- which included Rs.43,318/- granted by the SLAO. It is against this enhancement the present appeal has been filed by the State.

2. The learned AGP for the State contended that if the evidence of the valuer was rejected the Reference Court and, rightly rejected, then there was no material for the Reference Court to enhance the compensation from Rs.43,318/- to Rs.86,636/-.

3. Counsel for the respondent, however, contended that even though the valuer's report

was rejected, the valuer has given in his report that the house was 10 X 15. It was 30 years old and teak wood was extensively used in the house and all load bearing parts of frame i.e. column, beams and staircase were of teak wood and for ceiling and flooring some other inferior type of wood was used. The doors and windows were also partly teak wood and jungle wood or inferior type of wood. He, therefore, contended that if the teak wood was used extensively, then that could be the factor to be considered while enhancing the compensation.

4. I have perused the report of the valuer and even though his evidence otherwise was liable to be rejected for the reasons given by the Reference Court, the description of the house given by him and the user of the teak wood and the particulars given thereof in his report do clearly show that the valuation made by the reference Court is not exorbitant. It may be some what higher, but no interference is required on that count. Therefore, there is no merit in this appeal, the same is dismissed. No order as to costs.

[D.G.DESHPANDE]

18/02/2005

JUDGE .